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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Situation in Myanmar

In 2011, after 50 years of military dictatorship and isolation, Myanmar's military gov made way for a new, civilian one. The end of the military rule has not been due to the progressive work of pro-democracy forces or to the civil society but to the same military government which within one year decided for democracy. In 2011, Myanmar turning into a democracy was welcomed with enthusiasm and skepticism from the international community which, however, acknowledging the huge economic potential of the country hurried the lift of the sanctions that for fifty years had weighed on the country. Now after five years of transitional process and with the elections scheduled for November 2015, it is time to see where Myanmar is and where it is heading.

Since Thein Sein took the leadership of the country, many political reforms have been initiated, political prisoners including the Peace Nobel Laureate Aung San Suu Kyi have been released, forced labour has been banned and new laws have been implementing human rights in the country. Alongside with the political reforms, the new government has promoted the economic growth of the country, encouraging the investments of foreign countries.

At first glance, the transition from military rule to democracy Myanmar, albeit slow may seem constant. But that is not the case. The most recent example of this tendency is the removal from the leadership of the Union Solidarity and Development Party of U Shwe Mann, former general and friend/rival of President Thein Sein. Security forces and soldiers surrounded the headquarters of the party later at night and prevented members to go home.

The above mentioned episode is just the last of a long list of human rights abuses and violations. Fundamental for a transition are not just political and economic reforms but also the will of those who govern the country to support a culture of accountability and non-recurrence based on truth seeking, reparations and memorialization initiatives. In order to achieve those goals, Myanmar needs first of all solid legal bases which breaks with the past authoritarian authority. Unfortunately Myanmar's government so far has not heed that advice. The Constitution which is leading to the democratization has been endorsed during the military rule and it is not only providing the 25% of the Parliament seats to the military, it is also preventing any steps towards accountability for the crimes committed in the past. Indeed article 445 prescribes, that no proceeding shall be instituted against the Junta and against any member of the government when in execution of their duties.

Beside a Constitution which needs to be amended the Parliament has approved new laws that are violating international human rights standards and that are endangering the transitional process. The latest Marriage Bill, Religious Conversion Bill and Monogamy Bill, are three of the so-called "race and religion" laws that if signed into law by President Thein Sein will entrench discrimination based on sex, ethnicity and religion, and also violate internationally protected rights. Along with the laws it is important to take a look also to the political reforms. As mentioned above many political prisoners have been released. The creation of the Committee for Scrutinizing remaining political prisoners has led to the freed of more than 1,000 prisoners. However their place has been soon taken by new generations of political and human rights activists, land rights defenders and students who are now facing judicial harassment and prisons. The government which has promised the implementation of basic human rights such as the press freedom, freedom of association and of speech is often indulging in cracking down peaceful demonstration sometimes even through the use of chemical weapons. The justification of such a practice is the absence of the permission to demonstrate that is given, under the association law, by the authorities. It is interesting to note that such permission is always denied when it comes to human and land rights but is always given to nationalist and extremist who are fueling intercommunal violence between different ethnic groups. An example in this regard is the recent student protest in which the police and agents in plainclothes used batons, sticks, and other objects to attack student protesters and journalists covering the news but did not intervene in any of the spontaneous nationalist manifestations in Rakhine state against the Rohingya minority.

The situation of the ethnic and religious minority in the country is complicated and is driving Myanmar away from the path of transition. The ongoing armed conflict between the central government and the ethnic groups who are fighting for autonomy and self-determination from one side and the ethnic-religious problem in Rakhine state are posing a major obstacle to human and economic development. In Chin State, Kerenni (Kayah) State, Karen State, Mon State, Kachin State and Shan State the conflicts have displaced thousands of people. The awareness of impunity has brought the army to the perpetration of gross human rights violation against the civilians and especially towards women and girls. Rape and sexual violence are used in conflict zones as a tool of repression and Myanmar is not an exception. In January

2015, six months after signing the 'Declaration of Commitment to End Sexual Violence in Conflict', two female Kachin teachers, Maran Lu Ra (20 years old) and Tangbau Hkawn Nan Tsin (21 years old) from the Kachin Baptist Convention were brutally raped and killed by the Myanmar Army. At present, no investigation has been successful to identify the names of the perpetrators. The army is also preventing journalists to cover the news in the conflict areas, in a recent case the journalist Aung Kyaw Naing, also known as "Par Gyi" was arrested, tortured and killed by the army after completing a photo assignment on clashes between the military and the rebel Democratic Karen Benevolent Army (DKBA) in the east. So far, no military officials have been brought to account for his death.

In Rakhine State the Rohingya Muslim minority is living displaced in IDP camps or segregated in villages and in the Aung Mingalar ghetto in Sittwe. Considered as illegal migrants from Bangladesh the Myanmar government is denying them citizenship and it is gradually stripping the minority of their basic rights in what can be called an institutionalized apartheid. The Rohingya have no freedom of movement, they can't go to school, visit a hospital or even work, they are prisoners in their homeland. Since 2012 when the sectarian violence between ethnic Buddhist Rakhine people and Rohingya exploded the government has chosen to take the side of the extremists and has provided with laws and violence to the marginalization of the Rohingya. The Rohingya are victim of a state sponsored ethnic cleansing consisting in denial of livelihood, medical care, sexual abuses, arbitrary arrests and killings. The plague of the forced labor is also affecting the Rohingya. Although the implementation of the ILO's Forced Labor Convention in Myanmar the Rohingya are still target of the army which is exploiting and mishandling them. The Rohingya have most of the time no other choice than flee the country, according UNHCR in the first three months of 2015 more than 27,000 Rohingya have left Myanmar. The Southeast Asian countries are facing the arrival of thousands of refugees. Nevertheless, the government of Myanmar is refusing to take responsibility for their crimes and it is denying the existence of the Rohingya minority. Recently the government has declared not eligible for the 2015 election U Shwe Maung, a Rohingya an elected lawmaker and former member of Myanmar's governing party. The government has assured that the disqualification of U Shwe Maung is due to the lack of citizenship of his parents rather than to his ethnicity, a bit absurd because Shwe Maung father was a career-long officer in the national police force.

The disenfranchisement and the instrumentalization of ethnic and religious conflicts all over Myanmar are no longer tolerated by the civilians who are waiting for justice. Elections are three months away and the government has spent the last four years in creating a semblance of democracy where the military is still fighting for the supremacy.

Therefore Society for Threatened Peoples calls on the Human Rights Council to urge the government of Myanmar to:

- Amend the 2008 Constitution with special regards to Article 455.
- Adopt reconciliation policies and lead public information campaigns promoting tolerance and non-discrimination.
- Settle the basis of a dialogue between the different ethnic and religious groups in the country.
- Expand reparations and rehabilitations initiatives.
- Fairly and adequately investigate the crimes committed by the army in conflict zones.
- Facilitate the discussions about possible forms and pathways to justice and accountability.
- Guarantee the basic rights to the Rohingya minority through the restoration of their citizen rights.
- Guarantee fair and democratic elections.